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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,343	02/07/2002	Eric G. Suder	16312-P005P1	4155

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FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis, MN 55440-1022

EXAMINER	
NGUYEN, HANH N	
ART UNIT	PAPER NUMBER
2616	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/072,343	SUDER ET AL.	
	Examiner	Art Unit	
	Hanh Nguyen	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-46* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *35-46* is/are allowed.

6)☒ Claim(s) *1-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Response filed on 10/9/06 has been entered. The terminal Disclaimer filed on 10/9/06 is approved and the Double patenting rejection against claims 1, 16 and 30 in withdrawn. The rejections of 112 2nd paragraph in claims 11-13 and 30-34 are withdrawn.

Response to Arguments

Applicant's arguments filed on 10/9/06 have been fully considered but they are not persuasive.

In claims 1, 16 and 22 applicant argues that Schuster merely disclose a reduction in signaling workload at gateway device and does not teach throttling data sent from a first network device.

It is noted in the claimed language that data throttled from the first network device is not specified what kind of data it is. Examiner believes that Schuster discloses that data congestions being detected in Schuter not only include "existing call traffic" and /or " signaling traffic", or "a potential congestion of an event" (see Abstract and col.13, lines 10-15). When any of the congestions happens, action is taken to reduce the workload which inherently includes reducing either the "existing call traffic" if the data is call traffic and /or reducing the "signaling traffic" if the data is signaling request. (see col.13, lines 25-45).

Examiner believes a modem can be used to couple between device 26 and telephone 24 within Schuter as acknowledged by Applicant.

Examiner admitted that Claims 30, 31 and 34 were removed unintentionally and now has been addressed as indicated below.

claim 35 is allowed over the prior art of record after reconsideration. Therefore, claims 36-46 are also allowed because they depend on claim 35.

In claims 20 and 21, applicant agrues that Schuter does not disclose monitor audio information received by the telephone. Refer to fig.1, the management 90 which may be a process carried out by a gateway (which may be an Ip telephone; see col.6, line 47-52), a telephone system, a person monitoring call traffic and generate control signal in response to state of congestion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7, 11-34 are rejected under 35 USC 103(a) as being unpatentable over Schuster et al. (US Pat. 6,650,619 B1) in view of O'Mahony (US Pat. 5,878,120).

In claim 1, Schuster et al. discloses an information handling system (an Internet telephone system in fig.1) comprising: a first network device (multimedia PC 24 transmitting media streams) coupled to a first telephony device (coupled with telephone 26, fig.1, see col.5, lines 30-43), wherein the first telephony device includes first circuitry for throttling data sent from the first network device (reducing or stopping transmitting signaling requests in response to a congestion state is detected by a device in the internet telephone system; wherein the reduction may take at any location in the system, see col. 13, lines 10-20 and 25-45 & col.14,

lines 40-50). Schuster et al. does not disclose a first network device coupled to a modem through the first telephone device. O'Mahony discloses a modem DCE (see fig.1A-1D and fig.4) supporting simultaneous voice and data transmission. According to fig.4, non-voice (data) transmission is suspended (step 418) in order for the voice transmission to be carried out (step 420). See col.9, lines 10-20. Therefore, it would have been obvious to one ordinary skilled in the art to apply the teaching of O'Mahony into Schuster in order to couple the PC 24 to a modem via telephone 26 and throttle the data transmission sent from the multimedia PC 24 when a congestion is detected. The motivation is to enhance the voice transmission from the telephone.

In claims 16 and 22, as disclosed by the rejections of claim 1, the limitations of claims 16 and 22 have been addressed in claim 1.

In claims 20 and 21, Schuster et al. discloses monitoring audio information being received by the telephone, wherein the monitoring step monitors a predetermined level within a jitter buffer (a management system 90 located at any location in a gateway, router, gatekeeper or any suitable device in the Internet system. The management 90 monitors media streams including audio transmitted from a work station and generates a control signal in response to a congestion detected , see col.17, lines 15-30).

In claim 30, Schuster et al. discloses a telephony device (IP telephone 24) comprising: an input data port for receiving data (microphone), wherein the data is addressed for transmission to a location (gateway 12 can be Ip telephone; col.6, lines 47-52;, gatekeeper 54) other than the telephony device through an output port on the telephony device (PC 24), see col.5, lines 25-40; circuitry (microphone and speakerphone) for communicating information to and from the telephony device; a jitter buffer (the buffer is inherent comprised in the PC 24 such as a

memory); and a circuitry for sufficiently throttling the data in response to a predetermined level being exceeded within thejitter buffer so that the communication of the information can be performed in real-time (a threshold level of call requests at gateway/IP telephone is exceeded, see col. 13, lines 15-20).

In claims 31 and 34, Schuster discloses a threshold level in the signaling system used to detect congestion; but does not disclose the jitter buffer temporaily stores the information. O'Mahony discloses in fig.9, a modem comprising buffer 920 and 922 storing voice and data (see col. 14, lines 30-40). Therefore, it would have been obvious to store information in the buffer of telephone device of Schuster.

In claims 26 and 32, Schuster et al. discloses IP telephone with level 2 switching circuitry (Internet PC comprises a processor programmed to switch to an emergency mode in which the Internet PC stops transmits signaling requests to server, see col.14, lines 40-47.

In claims 4, 5, 6, 17, 18, 33 , Schuster et al. discloses the network is a TCP/IP network (IP network 22, fig.1), the first telephone using IP protocol (see col.5, lines 30-45 and col.6, lines 45-50).

In claims 2, 29, as disclosed in the rejection of claim 1 which includes a modem disclosed by O'Mahony, Shuster et al. discloses a router (router 64, fig.1) coupled the first telephone device (telephone 26); a second network device (PC 30, fig.1) coupled to the router (router 64, fig.1) through a second telephone (telephone 28, fig.1). Therefore, it would have been obvious to couple the router between the telephone device and the modem in the Shuster et al.

In claims 3, 15, as disclosed in the rejection of claims 1 and 2, Shuster et al. discloses the router(router 64, fig.1), the first telephone device (telephone 26) are coupled to each other via a

network (IP network 22, fig.1). By combining with the modem of O' Mahony, it would have been obvious to couple the modem with the telephone and the router via the IP network 22 of Schuster.

In claims 7, 19, 23 and 24, as disclosed in the rejection of claim 1, Schuster et al. further discloses the throttling step reduces a future amount of data (reducing call requests) from being transferred from the network device to the telephony device if an amount of data being transfered from the network device exceeds a predetermined threshold (in response to a potential congestion such as a threshold level of call requests is detected, see col.13, lines 10-20).

In claim 14, the limitation of this claim has been addressed in claim 1.

In claims 25 and 27, Schuster discloses, in fig.1, the network device is a work station (multimedia PC 24) and the telephone device (telephone 26) is a digital telephone (see col. 5, lines 33-40.

In claim 28, as disclosed in the rejection of claim 1, Schuster et al. further discloses in fig.1, a Multimedia PC transmitting media streams such as voice, video, data, audio and data to wide are network (IP network 22). Therefore, it would have been obvious to transmit multimedia data in the system of Schuster from PC 24 via modem to the IP network 22.

Claims 8-10 are rejected under 35 USC 103(a) as being unpatentable over Schuster et al. (US Pat. 6,650,619 B1) in view of O'Mahony (US Pat. 5,878,120), and further in view of Beyda et al. (US pat. No. 6,980,569 B1).

In claims 8, 9 with the rejection of claim 1 by Shuster and O'mahony above, Shuster et al. does not disclose the amount of data addressed to and received by the first telephony device

falls below a predetermined threshold, wherein the predetermined threshold is a predetermined level within the jitter buffer. Beyda et al. discloses a circuit monitoring data received by the telephoney device to determine if the data falls below a predetermined threshold within a jitter buffer (controller 110 (fig.3) of terminal 102 (fig.3) compares packet sizes with a preset threshold in the jitter buffer 113 (fig.3). If the packet size is below the threshold, the packet is adjusted; see fig.4, steps 302, 306, 308 and 310; col.4, lines 30-50. Therefore, it would have been obvious to use the method of checking packet level in jitter buffer against a predetermined threshold of Beyda et al. into the system of Shuster to determine that the amount of data addressed to telephony device has been poor and increase voice data addressed to the telephone by throttling the data transmitted from the work station.

In claim 10, Schuster et al. does not discloses a plurality of throttling levels, but O'Mahony discloses, as in the rejection of claim 1, that the DCE suspends non-voice transmission (one level of throttling); or alternately waits until the non-voice transmission is completely transmitted before transmitting the voice signal (a second level of throttling). See fig.4step 418, col.9, lines 5-20. Therefore, it would have been obvious to use the multiple throttling levels of O' Mahony into Shuster in order to adaptively adjust or change the throttling levels.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

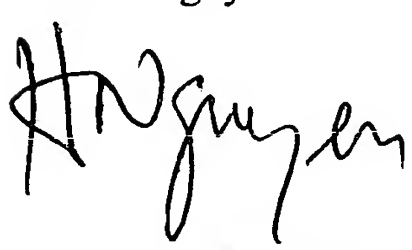
MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 571 272 3092. The examiner can normally be reached on Monday-Friday from 8:30 to 4:30. The examiner can also be reached on alternate

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Lynn Feild , can be reached on 571 272 2092. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hanh Nguyen



ANH NGUYEN
PRIMARY EXAMINER